

Community Planning and Economic Development Planning Division Report
Expansion of a Legal Nonconforming Use & Variances
BZZ-4012

Date: June 16, 2008

Applicant: Michael Sullivan

Address of Property: 3212 Garfield Avenue South

Contact Person and Phone: Michael Sullivan, (612) 282-8428

Planning Staff and Phone: Janelle Widmeier, (612) 673-3156

Date Application Deemed Complete: May 12, 2008

End of 60 Day Decision Period: July 11, 2008

Ward: 10 **Neighborhood Organization:** Lyndale Neighborhood Association

Existing Zoning: R2B Two-Family Residential District

Proposed Zoning: Not applicable for this application

Zoning Plate Number: 24

Legal Description: Not applicable for this application

Existing Use: Multi-family dwelling with 5 units

Concurrent Review:

Expansion of a nonconforming use to allow a detached garage accessory to a multi-family dwelling with 5 units located at 3212 Garfield Avenue South.

Variance to increase the maximum building lot coverage from 50 percent to 52.6 percent.

Variance to increase the maximum impervious surface coverage from 65 percent to 69.2 percent.

Applicable Zoning Code Provisions: Chapter 525, Article IX Variances, Section 525.520(15) "To vary the maximum lot coverage and impervious surface coverage requirements." and Chapter 531 Nonconforming Uses and Structures, Section 531.50(b).

Background: The applicant is proposing to construct a 4-car detached garage for an existing multi-family dwelling with 5 units at the property of 3212 Garfield Avenue South. The property is located in a predominantly residential area, one-half block east of Lyndale Avenue South. The current zoning is

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R2B, which does not allow a multi-family dwelling with 5 units. The principal building was constructed in 1923 as a 4-unit building. In 1970, a fifth unit was created. At that time, the zoning was R5 Multiple-Family Residential and a 5-unit building was an allowed use. Sometime between 1972 and 1996 the zoning changed to R2B. A multi-family dwelling with 5 units has existed on the property since before the zoning did not allow it, therefore it is legally nonconforming. No changes are proposed to the existing dwelling. A parking pad exists at the rear of the property adjacent to the alley. Not more than 4 vehicles can park in the parking area. The applicant is proposing a 4-car garage with a total floor area of 675 square feet. A hip roof with a 6/12 pitch is proposed, which is the same type and pitch of the roof on the principal structure. The primary exterior material would be cement board lap siding.

Constructing an accessory structure for a nonconforming use with more than 4 dwelling units is an expansion of a nonconforming use under Section 531.50(b) of the zoning code and therefore requires authorization from the City Planning Commission. Construction of a 675 square foot garage would increase the amount of lot and impervious coverage on the site that exceeds what is allowed in the R2B district. Variances are required to increase the maximum lot and impervious surface coverage requirements.

As of writing this staff report, staff has not received any correspondence from the neighborhood group. Staff will forward comments, if any are received, at the City Planning Commission meeting.

EXPANSION OF A LEGAL NONCONFORMING USE: To allow a 4-car garage accessory to a multi-family dwelling with 5 units in the R2B district.

The Planning Commission may approve an application if it meets the following standards and all other applicable regulations in the zoning ordinance (this section shall not authorize a use prohibited in the zoning district in which it is located to be expanded beyond the boundaries of its zoning lot):

(1) A rezoning of the property would be inappropriate.

The subject property is located on the block bound by Garfield Avenue, 32nd Street West, Lyndale Avenue, and 33rd Street. The east half of the block is zoned R2B, with the exception of one parcel zoned R4. The west half of the block is zoned R5. The west half of the block is also adjacent to a section of Lyndale Avenue designated as a community corridor by the comprehensive plan, *The Minneapolis Plan*. Staff is recommending that this section of Lyndale Avenue remain designated as a community corridor in the update of the comprehensive plan, *The Minneapolis Plan for Sustainable Growth*. Policies for community corridors generally support more density directly adjacent to the corridor to act as a transition to lower density residential neighborhood. The site along with the rest of the east half of the block was once zoned R5. Sometime between 1972 and 1996 the zoning changed to R2B, likely as a result of a zoning study. The first district that would allow 5-dwelling units without a lot area variance is the R5 district. If the property were rezoned, additional units could not be added to the building unless a parking variance were obtained. The existing use is allowed to remain as long as the use is not discontinued for more than one year.

- (2) **The enlargement, expansion, relocation, structural alteration or intensification will be compatible with adjacent property and the neighborhood.**

Most of the other buildings on the block are larger multi-family dwellings. Many of these properties have detached garages located adjacent to the alley. Garage sizes on the block range from 1-car to 4-car. A 4-car garage exists on the property to the north of the subject site. The proposed garage would be located adjacent to the alley in the rear 30 feet of the property, and would not exceed 676 square feet (the maximum accessory structure area allowed for conforming uses). The expansion to allow a garage is compatible with adjacent properties and the neighborhood.

- (3) **The enlargement, expansion, relocation, structural alteration or intensification will not result in significant increases of adverse, off-site impacts such as traffic, noise, dust, odors, and parking congestion.**

A parking pad exists at the rear of the property adjacent to the alley. Not more than 4 vehicles can park in the parking area. The applicant is proposing a 4-car garage. No additional traffic, noise, dust, odors or parking congestion would be expected with the expansion.

- (4) **The enlargement, expansion, relocation, structural alteration or intensification, because of improvements to the property, will improve the appearance or stability of the neighborhood.**

A parking pad exists at the rear of the property adjacent to the alley. The garage would replace the pad and provide enclosed storage for the multi-family dwelling. The roof pitch would be 6/12, which is the pitch of the roof on the principal structure. The primary exterior material would be cement board lap siding. Allowing the garage will likely increase the value of the property and contribute to the stability of the neighborhood.

- (5) **In districts in which residential uses are allowed, the enlargement, expansion, relocation, structural alteration or intensification will not result in the creation or presence of more dwelling units on the subject property than is allowed by the regulations of the district in which the property is located.**

No additional dwelling units are proposed.

- (6) **The enlargement, expansion, relocation, structural alteration or intensification will not be located in the Floodway District.**

The property is not located in the Floodway District.

VARIANCES: (1) to increase the maximum building lot coverage from 50 percent to 52.6 percent; and (2) to increase the maximum impervious surface coverage from 65 percent to 69.2 percent.

1. **The property can not be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

Building lot coverage: Not more than 50 percent of a zoning lot can be covered by buildings in the R2B district. The lot area is 5,083 square feet, therefore 2,541.5 square feet of building coverage is allowed. The existing building coverage is 1997.5 square feet or 39.3 percent of the lot area. The proposed total building foot print area is 2,672.5 square feet or 52.6 percent of the lot area. The proposed garage would not exceed 676 square feet, the maximum accessory structure area allowed for a conforming use in the R2B district. The request to increase the amount of building lot coverage to 52.6 percent is reasonable.

Impervious surface variance: The maximum impervious surface coverage allowed in the R2B district is 65 percent. The lot area is 5,083 square feet, therefore 3,304 square feet of impervious surface coverage is allowed. The existing impervious surface coverage is approximately 3,457 square feet or 68 percent of the lot area. The total proposed impervious surface is approximately 3,516 square feet or 69.2 percent of the lot area. The garage would replace a bituminous surface parking area. The impervious surface would increase by approximately 59 square feet. The applicant is proposing rain barrels to collect stormwater runoff from the roof of the garage and to mitigate the increase in impervious surface coverage. As previously mentioned, the buildings would cover 52.6 percent of the site. The remaining 16.6 percent of impervious surface is from walkways and the driveway. Excessive amounts of impervious surface are not proposed on the site. The request to increase the amount of impervious surface to 69.2 percent is reasonable.

2. **The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

Building lot coverage and impervious surface variance: The principal structure was built in 1923. The property was down-zoned sometime between 1972 and 1996 from a district that allowed more density and lot coverage. In this instance, the zoning code would prevent construction of a detached garage that complies with the maximum size of an accessory structure. These circumstances are unique and have not been created by the applicant.

3. **The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.**

Building lot coverage: The maximum lot coverage requirements are established to preserve open space in residential districts. The proposed garage would not exceed 676 square feet, the maximum accessory structure area allowed for a conforming use in the R2B district. It would comply with all yard requirements. Sizeable, contiguous pervious areas would remain on the site as well. Granting the variance should have little effect on the surrounding properties.

Impervious surface variance: The maximum impervious surface requirements are established to provide a number of benefits from landscaping such as buffers between uses, on-site retention of stormwater, and preserving the residential character of an area. The garage would

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replace a bituminous surface parking area. The impervious surface would increase by approximately 59 square feet. The applicant is proposing rain barrels to collect stormwater runoff from the roof of the garage and to mitigate the increase in impervious surface coverage. Granting the variance should have little effect on the surrounding properties.

4. **The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.**

Building lot coverage and impervious surface: The amount of parking on the site would not be reduced. The granting of the variances should not affect public safety or increase congestion in the public streets.

RECOMMENDATIONS:

Recommendation of the Community Planning and Economic Development Planning Division:

The Community Planning and Economic Development Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for an expansion of a legal nonconforming use to allow a detached garage for multi-family dwelling with 5 units located at 3212 Garfield Avenue South.

Recommendation of the Department of Community Planning and Economic Development – Planning Division:

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the variance to increase the maximum building lot coverage from 50 percent to 52.6 percent at the property of 3212 Garfield Avenue South.

Recommendation of the Department of Community Planning and Economic Development – Planning Division:

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the variance to increase the maximum impervious surface coverage from 65 percent to 69.2 percent at the property of 3212 Garfield Avenue South.

Attachments:

- 1) PDR Report
- 2) Statement of use
- 3) Findings
- 4) Correspondence
- 5) Zoning map
- 6) Plans
- 7) Photos

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